

network user. The application has some very specific definitions for the terms "audio segment," "audio identifier," and the like. These definitions are found on page 4, lines 12-page 5, line 2.

Claims 1, 4-9, 12, 13, 16-19, 28, 29, 32, 36, 38-42, 52, 54, 55, 57-60, and 62-69 were rejected under 35 U.S.C. § 103 as being unpatentable over Glaser et al. in view of Metz et al. For the Patent Office to make a *prima facie* case of obviousness such that a rejection under 35 U.S.C. § 103 is warranted, the Patent Office must show where each and every element is located in the combination of references. MPEP § 2143.03. Normally, the Patent Office is entitled to give claim terms their broadest reasonable interpretation as someone of ordinary skill in the art would define the term. MPEP § 2111. However, when the Applicant specifically defines a term in the specification, the Patent Office is not permitted to use a broad reasonable interpretation, but rather is bound by the definition that the Applicant has provided. MPEP § 2111.01. In the instant rejection, the Patent Office has overlooked the definitions provided in the specification and instead relied on what it considers to be a broad reasonable interpretation. When the proper definitions are afforded to the claim terms, it is clear that the claim elements are not present in the combination of references. Thus, the Patent Office has not made a *prima facie* case of obviousness, and the claims are allowable over the rejection of record.

Specifically, claim 1 recites that the processor receives a request for playing a sequence of stored audio data segments. The term "audio segment" is defined on page 5 of the specification to be an "atomic unit of audio data." This definition means that the audio segment is not further readily divisible. The audio segment may be a simple word or phrase that is always intended to be played as a whole such as "The time is" or "Thank you for using." The Patent Office, in its rejection, indicates that this element is disclosed at column 16, lines 40-60 of Glaser et al. This is demonstrably false. Column 16, lines 40-60 of Glaser et al. discusses an audio clip stored on an audio server 240. A user sends a seek signal through a subscriber PC 110 to locate an audio portion on the clip. The example provided is that the user wishes to replay the last 10 seconds of the recording again. This is not the same as an atomic unit of audio data. Rather, the reference has an audio clip in which a user may fast forward or rewind as desired. There is no suggestion that the "10 seconds" has any correlation to an atomic unit of audio data or that the clip itself is an atomic unit of audio data. Thus, this element is not taught or suggested by the reference. Nothing in Metz et al. cures this deficiency. Since nothing in either reference individually teaches or suggests the claim element, the references in combination do not teach or

suggest the claim element. Since the claim element is not taught or suggested by the combination of references, the combination of references does not provide a *prima facie* case of obviousness necessary to support the § 103 rejection and claim 1 is allowable over the rejection of record.

Independently, there is another claim element, which is not shown or suggested by the combination of references. Specifically, claim 1 recites that the sequence is identified by an audio identifier. The specification defines "audio identifier" on page 5 of the specification as "a number or code uniquely associated with an audio segment." The Patent Office admits that this is not taught or suggested by Glaser et al. and relies on Metz et al., column 15, lines 44-48 for the proposition that the element is disclosed. This reliance is misplaced. At column 14, lines 46-60, the program identification numbers (PID) that the Patent Office indicates are the same as the audio identifiers are introduced and explained. PID 0 and PID 1, for example, have special meanings – namely a program association table data and conditional access data. "Other program identification numbers are utilized to identify transport packets with the **program source** from which they originate." Metz et al. column 14, lines 57-60. In no case does the PID correspond to a number or code uniquely associated with an audio segment – especially not when audio segment is given its proper weight. Thus, Metz et al. does not teach or suggest the claim element. Since Glaser et al. admittedly does not teach or suggest this element and Metz et al. has been shown not to teach or suggest this element, the references in combination cannot teach or suggest this element. Since the claim element is not taught or suggested by the combination of references, the combination of references does not provide a *prima facie* case of obviousness necessary to support the § 103 rejection and claim 1 is allowable over the rejection of record.

Claims 4-6 depend from claim 1 and are patentable for at least the same reasons that claim 1 is patentable. Claim 5 deserves special mention. The Patent Office points to column 17, lines 36-42 of Glaser et al. for the proposition that the recited audio segment is a variable. This is not a reasonable interpretation of the reference. The "variable" recited in the passage of the reference is an indexing variable and has nothing to do with an audio segment. To this extent, claim 5 is independently patentable over the rejection of record. Claim 6 depends from claim 5 and further requires that the variable be resolved into an audio data segment. Nothing in the

cited passage (column 17, lines 43-52) teaches or suggests such an element. Thus, claim 6 is likewise independently patentable over the rejection of record.

Claim 7 is, in relevant part, analogous to claim 1 with the same portions of the reference being cited against analogous elements. Specifically, the Patent Office cites Glaser et al., column 16, lines 40-60 for "receiving a request to play an audio segment" and Metz et al., column 15, lines 44-48 for the audio identifier. As explained above, these elements are not taught or suggested by the combination of record and, thus, claim 7 is patentable over the rejection of record.

Claims 8 and 9 depend from claim 7 and are patentable at least for the same reasons that claim 7 is patentable.

Claim 12 is rejected for the same reasons stated in claims 1, 5, and 6, all of which are previously addressed. Claim 12 is further analyzed by pointing to Glaser et al., column 8, lines 24-40 for the proposition that the reference teaches "determining whether the variable is an embedded variable." Applicant has carefully studied the cited passage and finds nothing that can be construed, under a reasonable interpretation, as an embedded variable as that term is used in the specification. Further, the Patent Office points to Glaser et al., column 23, lines 43-60 for the proposition that the reference teaches "playing the sequence including the variable." Again, Applicant has carefully studied the cited passage and finds nothing that can be construed, under a reasonable interpretation, as the recited claim element. Nothing in Metz et al. cures the deficiency of Glaser et al. Since neither reference teaches or suggests either claim element individually, then the combination of references cannot teach or suggest the claim element. Since the claim element is not taught or suggested by the combination of references, the combination of references does not provide a *prima facie* case of obviousness necessary to support the § 103 rejection and claim 12 is allowable over the rejection of record.

If the Patent Office explains what component within each of the references is deemed to be equivalent to each of the claimed elements, Applicant reserves the right to address this in a later response.

Claim 13 depends from claim 12 and is patentable at least for the reasons that claim 12 is patentable. Further, claim 13 is independently patentable. The Patent Office indicates that Glaser et al., column 10, lines 48-51 show the recited "resolving the variable into at least one audio data segment based on at least one of type, subtype, and value of the variable." The cited

passage indicates that there is a timestamp that indicates the amount of time that the audio clip is to be advanced. This is not the same as the claimed element. The claimed element indicates that the variable itself is an audio segment, not a manipulation that is performed on the audio segment. To this extent, the reference does not teach or suggest the claim element. Nothing in Metz et al. cures this deficiency and the claim is patentable over the combination of references.

Claims 16-19 depend from claim 12 and are patentable at least for the reasons that claim 12 is patentable.

Claim 28 recites "monitoring digits received from a user." The Patent Office opines that this element is taught by Glaser et al. at column 3, lines 1-6. This is demonstrably false. The cited passage indicates that the system monitors requests by application programs such as MICROSOFT WINDOWS (see column 2, lines 55-67) to make sure that requests by such programs are not ignored. This is not the same as monitoring digits received from a user. Thus, this claim element is not taught or suggested by the reference. Claim 28 further recites "determining whether the expected number of digits have been received from a user based on the first parameter." Since the reference does not teach monitoring the digits received by the user, this element cannot be taught. However, the Patent Office points to column 8, lines 32-36. Applicant has carefully studied the recited passage and finds nothing that can be construed as the recited "determining whether the expected number of digits have been received from a user based on the first parameter." Because the initial interpretation of the reference is flawed with respect to the dialed digits, the remainder of the Patent Office's analysis is similarly flawed. Nothing in Metz et al. cures the deficiencies of Glaser et al. Thus, since neither reference teaches or suggests the claim elements individually, then even in combination the references do not teach or suggest the claim elements. Since the claim elements are not taught or suggested, the Patent Office has not borne its burden in presenting an obviousness rejection and the claims are patentable over the rejection of record.

Claims 29 and 32 depend from claim 28 and are patentable at least for the same reasons that claim 28 is patentable.

Claim 36 is closely analogous to claim 1, albeit in apparatus and means plus function form. Applicant's previous analysis with respect to claim 1 is also applicable here. Claims 38 and 39 depend from claim 36 and are patentable at least for the same reasons that claim 36 is patentable.

Claim 40 is closely analogous to claim 7, albeit in apparatus and means plus function form. Applicant's previous analysis with respect to claim 7 is also applicable here. Claims 41 and 42 depend from claim 40 and are patentable at least for the same reasons that claim 40 is patentable.

Claim 52 is the converse of claim 1. Where claim 1 is directed to receiving, claim 52 is directed to transmitting a request. The Patent Office provides no new analysis. Applicant's analysis provided with respect to claim 1 and the fact that the references do not teach or suggest the claimed audio segment or audio identifier is just as applicable for claim 52 as it is for claim 1. Claim 54 depends from claim 52 and is patentable at least for the same reasons.

Claim 55 is the converse of claim 7. Where claim 7 is directed to receiving, claim 55 is directed to transmitting. The Patent Office provides no new analysis. Applicant's analysis provided with respect to claim 7 and the fact that the references do not teach or suggest the claimed audio segment or audio identifier is just as applicable for claim 55 as it is for claim 7. Claims 57 and 58 depend from claim 55 and are patentable at least for the same reasons.

Claim 59 is a computer readable medium claim that is substantially different in part from the previous claims in that the computer readable medium comprises a data structure having two parts. The first part is the audio identifier. This, as explained elsewhere, is not taught or suggested by the combination of references. The Patent Office provides no new analysis as to where the audio identifier may be located, and thus, the claim is patentable over the rejection of record.

Claim 60 recites the audio segments and audio identifiers that have been addressed elsewhere. The Patent Office compares its analysis of these points to that provided in claim 1 and supplements its analysis of claim 1 by alleging that Glaser et al. teaches the processor programmed to extract a sequence of audio segments from the audio server database using the audio identifier in the request and pointing to column 6, lines 22-34 for proof. Applicant has carefully studied the cited passage and notes that it teaches two storage locations – one for audio clips that are accessed frequently and one for audio clips that are accessed less frequently. However, this still does not show the audio identifier or the audio segments, because as previously explained, these terms have special definitions which are not found in the references. The Patent Office then admits that Glaser et al. does not teach the interface card and opines that element 29 of Figure 2 of Metz et al. corresponds to the claimed interface card. This is

demonstrably false. Element 29 of Metz et al. is an ATM MUX within an encoder system. There is nothing that suggests that this is an interface card as that term is ordinarily used by those of ordinary skill in the art. Thus, this element is likewise not taught or suggested. Since numerous elements are not taught or suggested, the claim is patentable over the rejection of record.

Claim 62 depends from claim 60 and is patentable at least for the same reasons that claim 60 is patentable.

Claim 63 recites the audio segments which are not taught or suggested by the references. The Patent Office analogizes claim 63 to claim 12 despite the absence of the variable element in claim 63. Claim 63 instead recites a parameter which the Patent Office fails to identify in the references. Applicant reserves the right to further respond to any clarification that the Patent Office provides with respect to the parameter element. As the rejection stands, the references clearly do not teach or suggest the audio segments or the parameter, and thus, the claim is patentable over the rejection of record.

Claims 64-66 depend from claim 63 and are patentable for at least the same reasons.

Claim 67 was rejected for the same reasons as that provided for claims 1, 7, 12, and 13. Applicant notes that claim 67 recites the audio segments which the combination of references clearly does not teach or suggest, and thus, the combination does not make a *prima facie* case of obviousness. Since the Patent Office has failed to support its burden, the claim is patentable over the rejection of record.

Claims 68 and 69 depend from claim 67 and are patentable for at least the same reasons that claim 67 is patentable.

Claims 2, 3, 10, 11, 30, 37, 53, and 56 were rejected under 35 U.S.C. § 103 as being unpatentable over Glaser et al. in view of Metz et al. and further in view of Barany et al. As noted above, for the Patent Office to make a *prima facie* case of obviousness, the Patent Office must show where each and every element of the claims is taught or suggested in the combination of references. As argued above, the underlying rejection of Glaser et al. in view of Metz et al. is deficient, and thus, the Patent Office has not made a *prima facie* case of obviousness. The Patent Office has pointed to nothing in Barany et al. that cures this deficiency, so even in combination, these three references do not teach or suggest the claimed invention. Further, Applicant notes that the Barany et al. reference is commonly owned with the present application, and should a

continuation or CPA be filed, the Barany et al. reference is unavailable under the AIPA amendments to § 103.

Claims 14, 15, 31, 32, 43-45 and 61 were rejected under 35 U.S.C. § 103 as being unpatentable over Glaser et al. in view of Metz et al. and further in view of Epstein et al. As noted above, for the Patent Office to make a *prima facie* case of obviousness, the Patent Office must show where each and every element of the claims is taught or suggested in the combination of references. As argued above, the underlying rejection of Glaser et al. in view of Metz et al. is deficient, and thus, the Patent Office has not made a *prima facie* case of obviousness. The Patent Office has pointed to nothing in Epstein et al. that cures this deficiency, so even in combination, these three references do not teach or suggest the claimed invention.

Applicant further traverses this rejection as follows:

With respect to claim 14, the Patent Office opines that Epstein et al. teaches the claim element at column 5, lines 24-28 and column 10, lines 51-60. This is demonstrably false. Claim 14 recites that the variable is a multilanguage variable. The Epstein et al. reference does indicate that the reference can understand and properly respond to messages in a foreign language (column 5) and perform language identification at the phonetic level (column 10), but there is no teaching that a multilanguage variable is present in a request. The fact that the reference contemplates multiple languages does not equate to the recited claim elements. Thus, claim 14 is independently patentable over the rejection of record.

Claim 15 is traversed for the same reasons that claim 14 is traversed – namely that the multilanguage teachings of Epstein et al. are not the same as the recited claim elements. Since the elements are not the same, the element is not taught or suggested and the claim is nonobvious over the combination.

Claims 43-45 are likewise traversed for the same reasons that claim 14 is traversed – namely that the multilanguage teachings of Epstein et al. are not the same as the recited claim elements and cannot be used to satisfy the Patent Office's burden.

Claim 61 is traversed because Epstein et al. does not show the DSP card. The Patent Office admits that Glaser et al. and Metz et al. do not show this feature and points to element 36, Fig. 2 and column 6, lines 25-29 of Epstein et al. Applicant has studied this passage and Figure and notes that a speech synthesizer 36 is not the same thing as a DSP card. The use of the term "card" imparts structural limitations not present in the reference as the speech synthesizer of the

system 10. Since this element is independently not shown by the rejection of record, claim 61 is independently patentable over the rejection.

Claims 20, 23-25, 33-35, 38, and 46-51 were rejected under 35 U.S.C. § 103 as being unpatentable over Epstein in view of Glaser et al. The standard for patentability under 35 U.S.C. § 103 is set forth above. With respect to claim 20, the Patent Office opines that the step of receiving a request to collect digits or speech is taught by Glaser et al. at column 16, lines 40-60. The Patent Office admits that Epstein et al. does not teach this element. The cited passage has nothing to do with collecting digits or speech from a user, but rather indicates that the user can enter a seek command that replays ten seconds of audio. This is not the same thing as the recited "receiving a request to collect digits or speech." Since neither reference individually shows the claim element, the references in combination do not teach or suggest the claim element. Since the claim element is not shown, the Patent Office has failed to make a *prima facie* case of obviousness and the claim is allowable over the rejection of record.

Claims 23 and 24 depend from claim 20 and are allowable at least for the same reasons that claim 20 is allowable.

Claim 25 recites the step of monitoring digits received from the user. The Patent Office admits that Epstein et al. does not teach or suggest this limitation and relies on Glaser et al., column 3, lines 1-6 for support that the references teach the limitation. However, a close reading of the cited passage in Glaser et al. indicates that the requests that are discussed are from application programs, not from the user, and thus, the Glaser et al. reference does not provide the missing claim element. Since neither reference teaches or suggests the claim elements, the Patent Office has not made a *prima facie* case of obviousness and the claim is allowable over the rejection of record.

Applicant herein cancels claims 33-35 thereby mooted the rejection of said claims.

The Patent Office opines that claim 38 is rejected for the same reasons that claim 4 is rejected. However, claim 4 was rejected on the basis of Metz et al. and Glaser et al., not Glaser et al. and Epstein et al.. Thus, the analysis for claim 38 cannot be the same as the analysis for claim 4. Applicant reserves the right to address a proper rejection and analysis supporting the rejection of claim 38 when the Patent Office provides such a proper rejection. As the rejection is written, the claim is not properly rejected and is thus allowable. Further, claim 38 depends from claim 36 which was rejected under Glaser et al. and Metz et al., not Glaser et al. and Epstein et



al. The Patent Office's failure to remain internally consistent in its grounds of rejection is fatal to its position with respect to claim 38.

Claim 46 is substantially similar to claim 25 and is patentable for the same reasons that claim 25 is patentable.

Claims 47 and 48 depend from allowable claim 46 and are allowable at least for the same reasons that claim 46 is allowable.

Applicant has canceled claims 49-51, thereby mooting the rejection thereof.

Claims 21, 22, 26, and 27 were rejected as being unpatentable over Epstein et al. in view of Glaser et al. and further in view of Barany et al. As noted above, for the Patent Office to make a *prima facie* case of obviousness, the Patent Office must show where each and every element of the claims is taught or suggested in the combination of references. As argued above, the underlying rejection of Epstein et al. in view of Glaser et al. is deficient, and the Patent Office has not made a *prima facie* case of obviousness. The Patent Office has pointed to nothing in Barany et al. that cures this deficiency, so even in combination, these three references do not teach or suggest the claimed invention. Further, Applicant notes that the Barany et al. reference is commonly owned with the present application, and should a continuation or CPA be filed, the Barany et al. reference is unavailable under the AIPA amendments to § 103.

Applicant requests reconsideration of the rejection in light of the arguments presented herein and claim allowance at the Examiner's earliest convenience.

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